MONTANA LEGISLATIVE HISTORY

Chapter 430 19 83

Bill H 195 S _____ Original bill & history ____C

H. Committee on State Admin		S. Committee on State Admin	
Hearing Date(s) Jan 20	✓C	Hearing Date(s) Mar 03	✓C
	____C	Mar 14	✓C
	____C		____C
	____C		____C
Date Out	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

BILL KILLED

199 -- ADDY, DONALDSON -- TO GENERALLY REVISE THE LAWS RELATING TO MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES; AMENDING SECTIONS ...; REPEALING SECTION ....
BY REQUEST OF: THE DEPARTMENT OF MILITARY AFFAIRS

INTRODUCED: 01/13/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/13/83
HEARING: 1/20/83
REPORT: 01/20/83, DO PASS
2ND READING: 01/21/83, DO PASS, AS AMENDED AYES: 69; NAYS: 26
3RD READING: 01/22/83, DO PASS AYES: 75; NAYS: 19

TRANSMITTED TO SENATE: 1/22/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/24/83
HEARING: 2/28/83
REPORT: 3/15/83, BE CONCURRED IN
ON MOTION, REREFERRED TO COMMITTEE ON STATE ADMINISTRATION: 03/16/83
REPORT: 3/18/83, BE CONCURRED IN
2ND READING: 03/21/83, BE CONCURRED IN, AS AMENDED AYES: 48; NAYS: 0
3RD READING: 03/23/83 AYES: 50; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 03/23/83
2ND READING: 03/30/83, BE CONCURRED IN AYES: 89; NAYS: 0
3RD READING: 03/31/83, BE CONCURRED IN AYES: 90; NAYS: 3

TRANSMITTED TO GOVERNOR: 04/08/83
SIGNED: 04/11/83, CHAPTER 430

200 -- REAM, D. BROWN, ADDY, ET AL. -- TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO COOPERATE WITH THE FEDERAL GOVERNMENT IN IMPLEMENTATION OF THE FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 TO REMEDY THE RELEASE OF HAZARDOUS SUBSTANCES AND CONTAMINANTS INTO THE ENVIRONMENT; AMENDING SECTION ...; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
BY REQUEST OF: DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

INTRODUCED: 01/19/83
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 01/19/83
HEARING: 2/2/83
REPORT: 02/08/83, DO PASS, AS AMENDED
2ND READING: 02/10/83, DO PASS AYES: 78; NAYS: 6
3RD READING: 02/12/83, DO PASS AYES: 94; NAYS: 2

TRANSMITTED TO SENATE: 02/12/83
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 02/12/83
HEARING: 3/14/83
REPORT: 3/15/83, BE CONCURRED IN
2ND READING: 03/16/83 AYES: 48; NAYS: 0
3RD READING: 3/18/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE: 03/18/83

TRANSMITTED TO GOVERNOR: 03/23/83
SIGNED: 03/28/83, CHAPTER 241

[illegible] WINSLOW -- CHANGING THE TIME WHEN THE FINAL ORDER CONCERNING AN UNFAIR COMPLAINT MUST BE ISSUED FROM 5 MONTHS AFTER A COMPLAINT IS SUBMITTED TO THE

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
January 20,1983

VICE CHAIRMAN O'CONNELL called the meeting to order at 8 a.m. in Room 129 of the Capitol. All members were present.

HOUSE BILL 199

Vice Chairman O'Connell called for testimony on House Bill 199 by calling on its sponsor, REPRESENTATIVE KELLY ADDY, who said the measure would clarify and update laws relating to military affairs and disaster emergency services. He briefly went through sections of the proposed legislation:

Section 1 would place control of the Armed Forces of the state under the Adjutant General's Office.

Section 2 would allow warrant officers to issue oaths of office.

Section 3 would allow the deletion of provision of payments directly by the state for injured National Guard people. It would put their protection under the Worker's Compensation laws. At present, Rep. Addy said, legislators and the Adjutant General's Office act as insurance adjusters in the case of accident payments.

Section 4 would expand circumstances under which the Governor can declare a disaster. It would also allow money to come out of earmarked funds, not special appropriations.

Section 5 would delete the requirements for food and 1950s-style bomb shelters. Rep. Addy called them obsolete.

Section 6 would delete an existing provision he said hamstrings the department.

Section 7, specifically referring to line 22 on page 9, would make discretionary the matter of consulting the various agencies.

Section 8 would clarify what the emergency and disaster services should do in terms of standardizing what else is done in Section 4 of the bill.

Section 9 would clarify language.

Section 10 would make language consistent with Section 9.

Section 11 would expand the situations under which the capital could be moved from Helena.

Section 13 would be a simple repealer if the committee approves of the change in Section 3.

NO OTHER PROPONENTS BEING HEARD, AND NO OPPONENTS TO HOUSE BILL 199, VICE CHAIRMAN O'CONNELL CALLED FOR QUESTIONS FROM COMMITTEE MEMBERS.

COMMITTEE QUESTIONS

REPRESENTATIVE SMITH noted that he has a bill at present to fund the uninsured portion of the Workers' Compensation Fund. He asked how payment under this bill would be funded. GENERAL JAMES DUFFY answered, saying that when called to duty and individuals are injured, compensation is made under the emergency operating fund. REPRESENTATIVE DRISCOLL asked what the premium rates are charged for the military department. General Duffy said the same as any other job. He referred to KEN COSTLE, the administrator, who said that there has been an agreement between the Department of Military Affairs and the Workers' Compensation Division to pay a particular premium on a one time basis after the fact of injury.

THERE BEING NO FURTHER QUESTIONS BY THE COMMITTEE ON HOUSE BILL 199, VICE CHAIRMAN O'CONNELL CLOSED THE HEARING ON HOUSE BILL 199.

HOUSE BILL 216

Vice Chairman Helen O'Connell called for testimony on House Bill 216 by calling on its sponsor, REPRESENTATIVE RALPH EUDAILY, who said that House Bill 216 would provide for members of the Districting and Apportionment Commission to be paid at the same rate as members of the Legislature. He said the pay rate should be changed because in 1963 the legislative salary was $20, but the commission members' salary has remained the same since then. Rep. Eudaily said the bill would strike a specific figure as an allowance for the members of the commission and simply point to the section for legislative pay. In the future, he said, this would mean that the Legislature need not pass a bill for the commission but merely keep the commission members paid on the same basis as the legislators. "These people are private citizens as we are who leave private work as we do, to do a thankless job," Rep. Eudaily said.

JOANNE WOODGERD, a member of the commission, told committee members this is not a retroactive bill and it would affect only the next commission, in 1990.

EXECUTIVE SESSION

Vice Chairman O'Connell called the committee into Executive Session and asked for a motion on House Bill 199.

HOUSE BILL 199

REPRESENTATIVE JOHN PHILLIPS MOVED House Bill 199 DO PASS, REPRESENTATIVE KOEHNKE SECONDED.

Representatives Sales and Smith asked if a fiscal note was required for the bill. REPRESENTATIVE GLENN MUELLER said the measure was strictly a "pay back" measure and a fiscal note would not be appropriate.

The question being called, the MOTION CARRIED by unanimous voice vote.

VICE CHAIRMAN O'CONNELL MOVED THE COMMITTEE FROM EXECUTIVE SESSION TO THE HEARINGS PROCESS AND CALLED FOR TESTIMONY ON HOUSE BILL 218.

HOUSE BILL 218

REPRESENTATIVE LES KITSELMAN said House Bill 218 would clarify a problem in the law and clear up gray areas that concern the matter of how engineers, surveyors, real estate appraisers and architects are affected by the laws regulating private consultants.

JIM WEATHERLY, a consulting engineer from Missoula, said he supported the bill. He said in its original passage in 1981 his colleagues supported the measure, but it later became apparent that the Department of State Lands and the Department of Natural Resources and Conservation were charged with doing much more work, and the requirements in the 1981 statute became difficult to work with and created a double standard. He said the bill would create a standard procedure. He said one of the problems was that low bid consultants depend on other consultants' work and if working can be deleted as the bill would do, consultants' work can go much smoother. (See statement by Weatherly, attached.)

JIM CUMMINGS, Great Falls, representing the Montana Construction Engineers' Council, spoke in support of the bill. He said the bill would be important for the study and design of state-owned facilities and buildings. He said the bill leaves open the ban on other kinds of work. He said it would provide more economic services for the State of Montana. (See statement by Cummings, attached.)

STANDING COMMITTEE REPORT

JANUARY 20, 19 83

MR. SPEAKER

We, your committee on HOUSE STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 199

first reading copy (white color)

"AN ACT TO GENERALLY REVISE THE LAWS RELATING TO MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES; AMENDING SECTIONS 10-1-1-4, 10-1-302, 10-1-704, 10-3-103, 10-3-105, 10-3-107, 10-3-301, 10-3-311, 10-3-401, 10-3-404, 10-3-601, AND 10-3-607, MCA; REPEALING SECTION 10-1-504, MCA."

Respectfully report as follows: That HOUSE Bill No. 199

DO PASS

REP. JOE BRAND, Chairman.

STATE PUB. CO.
Helena, Mont.

VISITOR'S REGISTER

HOUSE State Admin COMMITTEE

BILL HB 199 DATE 1-20-83

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
MG Jim Duffy	Montana City	Dept of Mil Affairs	X	
Ken Grieb	Helena	" " " "	X	
Ken Cottrill	"	" " " "	X	
Kelly Kelly	Billings	HD 62	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MR. WANZENREID stated that the bill was circulated to all the tribes and there was no intention to suggest that they were downgrading in any way. He said there would be better communication thought. The only thing they heard from the tribe when they asked for the position change was that they wanted to help choose the person.

MR. WANZENREID stated that by the time the present coordinator was appointed the budget was pretty much put to bed.

SENATOR TOWE asked Mr. Claybourn how much authority does he have over the budget and who is his assistant and staff.

MR. CLAYBOURN said the budget was pretty much put to bed when he went in. The real major contention is the budget amendment and what will take place. He said he did hire his own staff.

REPRESENTATIVE ADDY closed. The original language in the bill said the coordinator shall be appointed by the Governor and the committee put in "from a list of five qualified applicants agreed upon by tribal council".

It was the decision of the committee to hold this bill at this time.

CONSIDERATION OF HOUSE BILL 199:
"AN ACT TO GENERALLY REVISE THE LAWS RELATING TO MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES; AMENDING SECTIONS.. ..., MCA; REPEALING SECTION 10-1-504, MCA; AND PROVIDING AN EFFECTIVE DATE."

SENATOR STORY, Chairman of the Committee, stated that since Representative was not able to be here on the day this bill was scheduled he would be given the opportunity to present it in an unformal way now. He opened up the meeting to questions of the committee but stated that Representative Addy may first present his introduction.

REPRESENTATIVE ADDY said that this is a bill that he is carrying at the request of the Department of Military Affairs. He reviewed the bill section by section.

Section 1 would provide that everyone on the Adjutant General's staff is under his control for disciplinary purpose. There are certain numbers on the staff who, through their status or not, are under disciplinary control and that would change that.

SENATOR STORY asked who that might be.

REPRESENTATIVE ADDY asked General Duffy to respond to that.

GENERAL DUFFY, Department Director, said what they have had the past few years is that their technicians were all civil service technicians and in recent years they have picked up active duty people and they go in active duty under title 32 and some under title N. and when they went under title N the disciplinary action had to be done by the acting army man in the state. The title 32 people are in the same position as that. If they pass a state law then he said it puts him in control and he administers military justice.

SENATOR MARBUT asked if they were to use the guard for any purpose in the state and if there were a conflict between you and the governor...

GENERAL DUFFY said that there would not be a conflict between the governor and himself but between him and the acting Senate House. The commander at headquarters of the Sixth Army would administer through the senior advisor here.

SENATOR MARBUT said it appears to him that this places under federal regulations, federal control, justice, etc., those people who would be on active duty in the national guard.

GENERAL DUFFY said that is not what it says. Anybody the governor calls to state active duty would be under the control of the governor.

SENATOR TOWE said that it says in effect that federal laws and regulations apply in government military forces in the state, and you say including all members in the national guard on active duty within the state. Why is it necessary to include that, are these people on active duty not with the military of this state.

GENERAL DUFFY said "yes they are". What they are talking about is if you don't have a state law governing then federal regulations will governor.

SENATOR TOWE asked what "in so far as they are applicable" and what does that mean.

GENERAL DUFFY it applies to federal law. The civil service technicians are not paid as civil service people when on active duty, they get all the benefits as the others in active duty. The question is whether to apply him to the sixth army or to apply to him a member of the military forces.

REPRESENTATIVE ADDY said that Section 2 defines who they administer the oath of office to. Section 3 currently says that whenever a member of the guard is injured or disabled

in any way the legislature is the insurance agent. By striking the subsection they are allowing workers compensation to administer this.

SENATOR STORY asked how this language does that.

CAPTAIN KEN COTTRILL said under the present law it says when injured in the service to the state, the individual would be taken care of the same as if on federal active duty which would be to go to a military hospital and it would determine the extent of your injury and the disability. The department of Military Affairs does not have a military hospital and we have no way of access to one when people are injured. We have thus had a group of doctors decide and then we come to the legislature with their conclusion and ask to have disability pensions funded... we are asking that you strike this language and show that they come under Workmens Compensation.

SENATOR STORY asked where it says that.

CAPTAIN COTTRILL said that it does not say it here but does under the workmens compensation laws.

There was continued discussion regarding this bill between General Duffy, Captain Cottrill and a few members of the committee.

The meeting adjourned at 12:30 p.m.

CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION -- 1983 Date 3/3/83

NAME	PRESENT	ABSENT	EXCUSED	SENA SEAT
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			4
SENATOR LARRY TVEIT				3
SENATOR R. MANNING	X			4
SENATOR LAWRENCE STIMATZ				
SENATOR THOMAS TOWE	X			2

MOTION WAS MADE BY SENATOR MARBUT HOUSE BILL 151 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Marbut will carry this bill.

ACTION ON HOUSE BILL 222:
SENATOR MARBUT MOVED THE AMENDMENT.:
Page 3, line 16.
Following: "elected"
Strike: "up to November 6, 1984"
MOTION PASSED.

SENATOR HAMMOND MOVED HOUSE BILL 222 AS AMENDED PASS.
MOTION PASSED.

ACTION ON HOUSE BILL 199:
There was discussion of the bill. It was mentioned that they should be aware of 10-3-103, disruption of state services. Dave Cogley, legal staff, brought out the question of the coverage by workers' compensation of people involved while on duty. Presently they are not able to be because of the striken language. He presented a letter from Workmans' Compensation. EXHIBIT 3.

SENATOR MARBUT MOVED H.B. 199 BE CONCURRED IN.
MOTION PASSED. Senator Stimatz voted "no". Senator Marbut will carry the bill.

ACTION ON HOUSE BILL 107: HOLD.
This was discussed and the decision was to hold it.

ACTION ON HOUSE BILL 528: HOLD.
The decision was to hold this bill so the amendments can be compared.

ACTION ON HOUSE BILL 776:
SENATOR HAMMOND MOVED THE AMENDMENTS TO H.B. 776, EXHIBIT 4.
MOTION PASSED.
SENATOR STIMATZ MOVED H.B.776 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Stimatz will carry the bill.

ACTION ON HOUSE BILL 329: HOLD.
Discussion was heard. Senator Story stated the Lombardie and Harper trial.
SENATOR TOWE MOVED HOUSE BILL 329 BE CONCURRED IN.
More discussion led to having the bill held until the next meeting.

The meeting adjourned at 11:30 a.m.

CHAIRMAN

EXHIBIT 3
State Admin.
3/14/83

DIVISION OF WORKERS' COMPENSATION

TED SCHWINDEN, GOVERNOR

815 FRONT STREET

STATE OF MONTANA

HELENA, MONTANA 59604

Re HB 199

March 4, 1983

Captain Kenneth E. Cottrill
Centralized Service Administrator
Department of Military Affairs
Army National Guard Headquarters
Helena, Montana

Re: Coverage of National Guard personnel

Dear Captain Cottrill:

This letter will confirm our telephone conversation earlier today concerning the matter referenced above.

House Bill No. 199, by Section 13, repeals Section 10-1-504, Montana Code Annotated. You indicated to me during our telephone conversation a concern that the repeal of this section may not effect the result you desire, namely, that a member of the organized militia who is injured while performing services for the State of Montana be eligible for workers' compensation benefits. At that time, I indicated to you my belief that the only impediment to the receipt of workers' compensation benefits was this particular statute and that with its repeal the eligibility for workers' compensation benefits was thereby created.

Sincerely,

WILLIAM BAILEY DUNN
Chief Legal Counsel

WBD/nmb

apparently to
sec 39-71-...

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3832

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 199

Addy (Marbut)

Respectfully report as follows: That HOUSE Bill No. 199

BE CONCURRED IN

~~XXXXX~~
~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.